Reconsideration and allowance of the subject application are respectfully solicited.

Claims 17, 18, 21 through 24, 26 through 28, 31 through 34, 36, 37, 47, 48, 51 through 54, 56, 57, and 59 through 61 are pending, with Claims 17, 23, 24, 27, 33, 34, 47, 53, 54, 59, 60, and 61 being independent. Claims 17, 27, 47, 59, 60, and 61 have been amended.

Claims 17, 18, 21 through 24, 26 through 28, 31 through 34, 36, 37, 47, 48, 51 through 54, 56, 57, and 59 through 61 were rejected under the judicially-created, non-statutory doctrine of obviousness-type double patenting over Claims 1 through 15 of U.S. Patent No. 6,473,793 B1. All rejections are respectfully traversed, and are submitted to have been obviated by the filing herewith of a Terminal Disclaimer that makes reference to that patent.

The claims were variously rejected under 35 U.S.C. § 103 over U.S. Patent Nos. 5,163,046 (Hahne, et al.), 7,028,088 B1 (Koperda, et al.), and 5,699,369 (Guha). All rejections are respectfully traversed.

Claims 17, 27, and 47 variously recite, *inter alia*, with respect to the gateway, throttling a user of a first apparatus by modifying the TCP window size field of the packet, so as to change the value from a value present in that field in the packet as received, in accordance with (1) the level of service subscribed to by the user of the first apparatus and (2) bandwidth usage associated with the user of the first apparatus, and sending the so modified packet to the second apparatus so that the second apparatus receives the modified packet that has, in its TCP window size field, a value different from the value present in that field in the packet received (each of the first apparatus, gateway, and second apparatus having different IP addresses).

Claim 59 through 61 variously recite, *inter alia*, with respect to the gateway, determining which of a plurality of service plans a user of a first apparatus subscribes to, and throttling a user of a first apparatus in accordance with (1) a leaky bucket analysis of the user's throughput and (2) the determined service plan subscribed to by the user, wherein a packet on a TCP/IP connection between the first apparatus and the second apparatus is intercepted, and

throttling is effected by <u>modifying a field in the packet so as to cause the second apparatus to change an amount of data it sends before awaiting a TCP ACK from the first apparatus</u>.

Claims 23, 33, and 53 variously recite, *inter alia*, with respect to the gateway, determining the number of TCP connections, and throttling a user of a first apparatus in accordance with (1) <u>the determination of the number of TCP connections that are open</u> and (2) a level of service subscribed to by the user of the first apparatus (each of the first apparatus, the gateway, and a second apparatus having different IP addresses).

Claims 24, 34, and 54 variously recite, *inter alia*, with respect to the gateway, throttling a user of a first apparatus in accordance with (1) a leaky bucket analysis of the user's throughput and (2) a level of service subscribed to by the user, wherein a packet on a TCP/IP connection between the first apparatus and the second apparatus is intercepted, and <u>throttling is effected by discarding the packet (throttling being in accordance with (1) and (2) above)</u>.

However, Applicants respectfully submit that none of <u>Hahne, et al.</u>, <u>Koperda, et al.</u>, and <u>Guha</u>, even in the proposed combinations, assuming, *arguendo*, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, <u>inter alia</u>, in Claims 17, 23, 24, 27, 33, 34, 47, 53, 54, and 59 through 61.

With respect to Claims 17, 27, 47, and 59 through 61, the Official Action relies upon <u>Hahne, et al.</u>, and states that (1) <u>Hahne, et al.</u>'s "destination 128" is the claimed second apparatus, and (2) <u>Hahne, et al.</u> discloses using the WINDOW_SIZE field (e.g., col. 16, line 34). Applicants respectfully traverse this reliance. Applicants respectfully submit that <u>Hahne, et al.</u> discloses, e.g., (1) that for the cell network 100, segmentation circuit 408 performs window flow control on each virtual circuit, wherein the window size for each virtual circuit may be varied dynamically (e.g., window size may change under the influence of congestion control messages; an allocation is written into the WINDOW_SIZE field in a control message <u>on the cell network 100</u>; col. 10, lines 8-26, and col. 16, line 34), and (2) router 120 reassembles the data cells from the cell network 100 into data packets addressed to a particular destination and transmits them to

the local network 124, from whence they are taken by the destination 128 (e.g., col. 5, lines 46-48). Applicants respectfully submit that under such a scheme, destination 128 receives a reassembled packet which is **not** modified as required by Claims 17, 27, 47, 59, 60, and 61.

With respect to Claims 23, 33, and 53, the Official Action does not address the claimed feature regarding using the determination of the number of TCP connections, and Applicants respectfully submit that the applied documents are silent at least in this regard.

With respect to Claims 24, 34, and 54, the Official Action does not address the claimed feature regarding discarding the packet (in accordance with (1) and (2)) as claimed, and Applicants respectfully submit that the applied documents are silent at least in this regard.

It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at the above-discussed claimed features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from the independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

REQUEST FOR INTERVIEW

If any questions remain, Applicants respectfully request that the Examiner contact Applicants' undersigned representative, Daniel S. Glueck, at (202) 530-1010 to schedule a personal interview. Favorable consideration in this regard is earnestly solicited.

CONCLUSION

Applicants submit that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached at (202) 530-1010.

Respectfully submitted,

/Daniel S. Glueck/
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